

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, September 16, 2004

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, September 16, 2004, at 3:00 p.m., at Police Headquarters, 1300 Beaubien – Rm. 328-A, Detroit, Michigan 48226.

ATTENDANCE

Board Members Present

Arthur Chairperson Blackwell, II
Erminia Ramirez
Jim Holley
Megan Norris
Willie Hampton

Department Personnel Present

AC Walter Shoulders
Cmdr. Ralph Godbee
Cmdr. Craig Schwartz
Cmdr. Herbert Moreland
Insp. Jamie Field

Board Staff Present

Dante' L. Goss, Executive Director (**ABS**)
E. Lynise Bryant-Weekes, Personnel Director
Denise R. Hooks, Attorney/Supervising Inv.
Arnold Sheard, Interim Chief Investigator

OTHERS PRESENT

Ron Scott
Sandra Hines

RECORDERS

Jerome Adams
Kellie Williams

1. CALL TO ORDER

Vice-Chairperson Ramirez called the regular meeting of the Detroit Board of Police Commissioners to order at 3:15 p.m.

2. APPROVAL OF MINUTES

♦ Thursday, September 9, 2004

MOTION: **Comm. Holley** made the motion to approve the above Minutes.

SECOND: **Comm. Norris** seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

Comm. Hampton entered the conference room at 3:15 p.m.

Oath of Office

Vice-Chairperson Ramirez swore-in Cindy Owens and Melanie White as appointed Police Commission Investigators at the Office of the Chief Investigator.

4. SECRETARY'S REPORT – ATTY. HOOKS

SUSPENSION

On September 16, 2004, **Police Officer Joseph Biggers**, Badge 4830, assigned to the Third Precinct, was suspended without pay by Chief Ella M. Bully-Cummings.

On July 19, 2004, the Professional Accountability Bureau, Internal Affairs Section was notified of an allegation of misconduct on the part of Police Officer Joseph Biggers, badge 4830, assigned to the Third Precinct. More specifically, the allegation alleged that Officer Biggers did falsify an official Detroit Police Department document, that being an affidavit for a search warrant, and did swear to the contents thereof before a State of Michigan Thirty-Sixth District Court Magistrate.

As a result, the Internal Affairs Section initiated an investigation, which revealed the following:

On May 18, 2004, Officer Biggers was assigned to the Detroit Police Department Firearms Investigation Team (hereinafter FIT). Officer Biggers and his partner were responsible for conducting street investigations concerning illegal firearms.

On May 19, 2004, a special agent from the Bureau of Alcohol, Tobacco, and Firearms (hereinafter ATF) contacted the sergeant in charge of FIT to notify him of his investigation concerning a location within the city of Detroit, suspected of storing narcotics and illegal firearms.

On May 21, 2004, Officer Biggers prepared and submitted a search warrant to the Wayne County Prosecutor's Office for approval. The basis for the search warrant was the information provided by the ATF special agent on May 19, 2004. Officer Biggers then swore to the contents of the search warrant before a Magistrate at Thirty-Sixth District Court.

On July 16, 2004, the special agent assigned to ATF contacted the sergeant assigned to FIT to advise him that the content of the search warrant Officer Biggers swore to on May 21, 2004, was false.

On August 5, 2004, a warrant was presented to the Wayne County Prosecutor's Office. On September 7, 2004, a felony warrant was issued against Officer Biggers, charging him with "Perjury-Other Than Court Proceedings," contrary to MCL 750.423. Perjury-Other Than Court Proceedings is a felony, punishable by 15 years in prison.

On September 8, 2004, Officer Biggers appeared at Thirty-Sixth District Court for arraignment. A plea of not guilty was entered on his behalf and he was released on a \$20,000 personal bond. The preliminary examination is scheduled for October 13, 2004.

Based on the above circumstances, it is recommended that Officer Biggers be charged with, but not limited to the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNPROFESSIONAL; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF THE DETROIT POLICE DEPARTMENT MANUAL, SERIES 100, DIRECTIVE 102.3-5.7, CONDUCT UNBECOMING AN OFFICER, COMMAND 3.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

RESERVED ORAL ARGUMENTS

Atty. Hooks stated Commissioners, if you recall on August 19, 2004, there were three suspensions that were presented to you and they were not contravened at that time. Oral Arguments by both the defense counsel as well as the department was reserved until this date.

1. **Police Officer Maliak Jones**, Badge 3706, assigned to the Thirteenth Precinct.

Atty. Goldpaugh stated as Ms. Hooks has pointed out, there was a petition read before this Board a month ago and the Board was kind enough at that time to allow us to adjourn oral arguments when conditionally there was not a quorum and secondly, Ms. Ninowski and myself were not going to be available. We are here today, interestingly enough still a month later without any kind of formal charges that is being filed against Officer Maliak Jones. Officer Jones, if you may recall, was being investigated for an allegation of felonious assault. Internal Affairs had shown up, took reports and took conflicting testimonies from certain witnesses and submitted at that time a warrant request and has not been acted upon as of yet. To my understanding that it is still sitting in the Prosecutor's Office and in fact it is my understanding that it had been turned back to Internal Affairs for further investigation. With all of that said, we have no basis at this point to suspend the officer, based solely on these mere allegations. I know there has been some discussion.... And obviously if a warrant had been obtained on a felony, as with Officer Biggers, I would not be here. Here we don't, not only have no warrant has been obtained for anything, but in fact they are still investigating it.

Comm. Norris asked do you know if in fact it was turned backed to the Prosecutor's Office to the DPD for further investigation? Do you know if that investigation has happened and has gone back to the Prosecutor's Office?

Atty. Goldpaugh stated I believe that it has.

Comm. Norris asked so your understanding is that DPD has done what it was suppose to do to present the warrant request and at this point it is out of DPD's hands, sort of where this goes?

Atty. Goldpaugh stated that is my understanding of it. I did speak with Mrs. Ninowski as late as ten minutes ago and it was her understanding as

well that it is sitting over in the Prosecutor's Office that Internal Affairs has attempted to find out what is going on with this, but nothing is happening.

Comm. Norris asked do you agree that if the allegations are true, would felonious assault would be an appropriate charge?

Atty. Goldpaugh stated if in fact the allegations are true or.... I would suggest that Commissioner, that even if they are not true that this would mean that a warrant is not going to be obtained. But, if of course, if those are true and they are proven not just allegations then I would suggest that she may or may not be found guilty of felonious assault. My point is that at this point in time, we don't have any egregious misconduct except for allegations being made, which would support a suspension without pay at this time.

Comm. Hampton asked so specifically are you asking that he be reinstated at this junction prior to the investigation and be held in abeyance?

Atty. Goldpaugh stated exactly. I understand the procedures and policies of the Board, that unless you overturn the request of the Chief, it takes effect and we know that going in when we asked to have the arguments today. But at that time there was no warrant and I would suggest the same thing that I am saying today that we shouldn't even before you until at least we have something concrete to deal with.

Comm. Holley stated I thought the last time your concern was that the pay be reinstated, not that he would be reinstated.

Atty. Goldpaugh stated if the Board wishes to contravene the suspension, then it would be with pay. Basically, I would like her to get paid.

Comm. Norris stated my problem with your argument is that, if a warrant is issued then we are still just dealing with allegations.

Atty. Goldpaugh stated correct.

Comm. Norris asked do you agree if a warrant was issued, you would not be here arguing?

Atty. Goldpaugh stated I would be here arguing if they were issuing warrant for assault and battery.

Comm. Norris stated but if it is a felony warrant...if it is the warrant that has been requested, then you wouldn't be here arguing?

Atty. Goldpaugh stated that is correct.

Comm. Norris asked so the issue isn't well it is only allegations because it is only allegations until we go through a full criminal proceeding and we have a resolution. That is not the bottom line. The issue to you, is right now it is DPD allegations until it becomes the Prosecutor's allegation. She asked are you not okay?

Atty. Goldpaugh stated no, I am not okay with that argument because as I have indicated we have a ... I can't tell you how many charges or investigations have left Internal Affairs, requesting a particular charge and that is what set forth these allegations. Regardless, of what they request, it is the Prosecutor, who makes the determination of the charges. Therefore, the fact that it is just mere allegations doesn't make any difference. Why I do not come before this Board, when it is a felony is because true it is only mere allegations, when it is also the allegations of a felony and a felony warrant, not just that fact. And that is why we argued or not argued that a police officer, who is under felony charges would not be able to do his or her job. It is not the underlined facts and it has never been that.

Comm. Hampton stated there have been suspensions without pay and a felony has not been issued, so are you suggesting that we set a new standard?

Atty. Goldpaugh stated I'm sorry, I don't understand the question.

Comm. Norris stated he has never agreed with that standard.

Atty. Goldpaugh stated I have never agreed with that standard, you know that Commissioner.

Comm. Norris stated but we have done it, but he has never conceived it that way.

Atty. Goldpaugh stated see my problem with proceeding without at least something and I believe that Commissioner Blackwell on other occasions has raised how long are we going to have someone sitting out there without pay, without being charge. The Chief had a petition before this Board on Officer Curry, which was about nine or ten months ago and no criminal charges were every brought and nothing ever occurred, the Department then let him sit out there suspended without pay even after the criminal mark was denied and we are finally getting into some sort of discipline hearing. So, that is a real problem that I have when we have a

situation when we appear only under an Article 9 argument, this is not under the underlined allegations that was covered.

Comm. Norris stated I think that is a really legitimate argument, when the holdup is at the Department, but I find it a harder argument when the Department has done everything that it is suppose to do and the holdup is not in the Department.

Atty. Goldpaugh stated Commissioner I would agree, but except for one thing, it doesn't make a difference where the holdup is. Let's suppose, as they did in Officer Curry they said that we are not going to charge him criminally, yet he still sits out there to this day, suspended without pay without any type of due process hearing. They are finally getting the Trial Board going. So, regardless of what the Prosecutor does, we are here under an Article 9 argument. The Article 9 argument is, has this officer, is his/her rights being violated, her contractual rights to take her pay absent some sort of egregious misconduct, not just egregiously alleged misconduct and not just the fact that a felony warrant has been obtained.

Vice-Chairperson Ramirez asked when is the Trial Board?

Atty. Goldpaugh stated I was eluding to a matter that occurred in last October or November. That was a different officer. We don't...There is nothing at all scheduled.

Vice-Chairperson Ramirez stated nothing, that is what I am saying on this one.

Atty. Goldpaugh stated nothing at all.

Vice Chairperson Ramirez asked nothing at all?

Atty. Goldpaugh stated no.

Comm. Hampton stated in most cases there is always alleged allegations, it is not proven, it is alleged.

Atty. Goldpaugh stated that is correct and that is why we have an Article 9 in the contract. Clearly it states that, as you do circumstances, egregious circumstances, not just egregious allegations and we have always gone along for 20 some odd years with the Board that a felony warrant, whether it is true or not, rises to that level where a police officer cannot continue his employment on the job until that is resolved, so we don't come in to argue this. A prime example of this is the cases that were dismissed in the federal courts.

Chairperson Blackwell asked so your argument is not ever then the issue of an allegation because a felony is an allegation as well, it is an issue of a more serious allegation?

Atty. Goldpaugh stated that is correct, it is more serious than the warrant that has been obtained under these circumstances.

Chairperson Blackwell stated the point is in neither cases anybody not necessarily indicted or convicted of a particular offense. Your issue is the difference between, which you would assert is a more serious allegation at that level versus a lesser allegation.

Atty. Goldpaugh stated that is correct.

Chairperson Blackwell stated because they are both allegations.

Atty. Goldpaugh stated that is correct. I think that what we also, historically and we have had our arguments or discussions, despite our differences or opinions. Historically, when you look to see any of some of the cases that have now come down in the grievances that have been filed with respect to suspensions for less than a felony warrant. When we look to see if whether or not the underlined misconduct would in fact warrant dismissal, if in fact, it wasn't a felony and I think that is part of what the arbitrators are saying. For example, you are not getting fired for this, so why are you suspending them without pay.

Chairperson Blackwell asked if a person is under a suspension status, whether it is with or without pay, from their duty are they still considered a police officer as it relates to employment? In other words, police officers have certain things that they can and cannot do. For instance, police officers cannot act as security while being a Detroit Police Officer. He asked if they are suspended, does that suspend that status or do they still bound by the same guidelines?

Chief Bully-Cummings stated I would like Atty. Ninowski to answer that question.

Atty. Ninowski stated under the Manual, if the duty status of an officer is suspended without pay. First of all, there is a provision under the Detroit Police Manual that addresses that.

Chairperson Blackwell asked and that is?

Atty. Ninowski stated I can't give you the directive off the top of my head, but there is a specific directive that addresses that. It also addresses the confiscation of your equipment. For example, a department issued

weapon, pepper spray, their badge, their department id and their identification card. The provision also addresses their authority as a police officer that no longer exists in essence, once those items are surrendered to the Department. So, if they are in a suspended status they cannot take police action.

Chairperson Blackwell asked can they go seek a job that they would not be able to seek if they were in an active status?

Atty. Ninowski stated certainly, nothing prevents them from seeking outside employment.

Chairperson Blackwell stated I guess one of the argument is that people is going 9 months or 10 months without employment when there is nothing really preventing them from going and gaining employment in the interim.

Atty. Ninowski stated yes, I understand what you are asking me.

Chairperson Blackwell asked are they restricted only from the Detroit Police issue equipment or are they also restricted from their own private CCW? Are they still allowed to carry that?

Atty. Ninowski stated they are restricted from Detroit Police Department issued equipment. So, if they choose to obtain outside employment and I aware of some officers who are in a suspended without pay duty status who have obtained outside employment at various security agencies. So, nothing in our rules or regulations....

Chairperson Blackwell stated my understanding was when you work as a police officer, even outside of your status, you are prevented from working in security inside the city of Detroit, but you still have the duty and power of a Detroit police officer and outside the city you don't but the weapon that you may carry still has to be approved by the Department.

Atty. Ninowski asked are we still talking about officer's, who are on suspended duty status?

Chairperson Blackwell stated yes.

Atty. Ninowski stated I don't think I understand what your question is.

Chairperson Blackwell stated the question is as a private citizen and for all intensity purposes cannot carry a weapon if it is a weapon with a CCW if in fact the weapon from what I understand that you have to carry even if it is not a police department issued weapon it still has to be approved by the Department. That is my question.

Atty. Ninowski stated I don't know if I could simply answer that question.

Chairperson Blackwell stated answer it complicatedly.

Atty. Ninowski stated if an officer is on a suspended duty status and that officer's department equipment has been confiscated, your question is first, can that officer apply for or obtain a CCCW. I would think the answer to that question would be yes, that officer can. The second part of your question is with respect to the type of weapon that the officer would carry while carrying a CCW. Yes, the Department requires that the weapons that officers carry be approved by the Department. That answers one part of your question. In terms of the weapon that they carry with a CCW permit while they are on a suspended duty status...She asked are you asking me if that weapon still has to be approved by the Department?

Chairperson Blackwell stated I am, but my understanding is.... Let's say they have a current CCW different from the one that...because you need that in order to carry a weapon outside your employment in official capacity as a Detroit Police Officer. You can't off duty carry a weapon in a security guard function outside of the city of Detroit because that is prohibited unless the weapon is approved by the Department. I am just going by what the new rule is based on now is that it is not mandatory to carry when you can or when you can't. Here's the issue. The real issue is there is some sensitivity up here for a person who is off work for an extended period of time and obviously this person is obviously suspended with their duty and their powers as a Detroit police officer but they still have the training where they would be valuable and that is where their best use may be in a security function outside of the parameters, where they could work inside the city or with the Department. The question is if they work outside in another community as a security guard, is the weapon that they carry even though it is not a police issued weapon still the one that was approved by the Department or not.

Atty. Ninowski stated there is nothing in the rules or regulations, when a officer on a suspended without pay duty status, that number one, prevents them from seeking outside employment, such as you described. With respect to the weapon that they carry, they are temporarily separated from the Department. When they are temporarily separated from the Department, I don't want to go so far as saying, that the rules and regulations do not apply, but they certainly cannot take police authority or police action in the city of Detroit as a Detroit police officer.

Chairperson Blackwell stated we agree on all of that. He asked is the weapon that they have that is a non-police issued weapon that was

approved by the Department for them to have, is there still an approval for that particular weapon from the Department?

Atty. Ninowski stated the Department does confiscate department equipment, when they are in a suspended without pay duty status....

Comm. Norris stated that is not the question. The question is, if I am Joe citizen and I have nothing to do with DPD, I can go get a CCW and there are certain kinds of weapons that I carry under that CCW, DPD has nothing to do with any of that.

Atty. Ninowski stated correct.

Comm. Norris stated if I am a DPD officer, there are restrictions on what kinds of weapons that I am allowed to carry, I can still go get Joe Citizen CCW, but there are restrictions on what kinds of weapons I can carry. She asked if I am in suspended status, am I Joe Citizen or I am DPD for purposes of what kind of weapon I can carry.

Atty. Ninowski stated you would be Joe Citizen. Secondly, I do want to point out that with respect to....

Chairperson Blackwell stated then that means that approval then disappears.

Comm. Norris stated as does the requirement for the gun.

Atty. Ninowski stated yes.

Comm. Blackwell asked when the Department gave initial approval is there an action action to take away the approval of that weapon at some point, when the suspension happens, if it isn't an argument could be made that I was given approval to carry this weapon when I was outside of my duty status as a police officer. All I am saying, from a risk management prospective we may need to look at that because this person was given the authorization at some point to carry that weapon.

Atty. Ninowski stated the authorization I believe is to carry the weapon on duty.

Chairperson Blackwell stated no, you give authorization from what we were told to carry a weapon off duty as long as it is approved by the Department.

Chief Bully-Cummings stated anytime an officer carries a weapon whether it is on or off duty that is not a department issued weapon it has to

be inspected and approved by the Department. So that is where that authority comes from. Once the member is suspended from the department and all of his equipment is taken away his Detroit Police Department authority is removed and he is John Doe Citizen at that point in time.

Chairperson Blackwell stated the point was that at some point that non-departmental issued weapon was given approval and permission for this individual to carry.

Chief Bully-Cummings stated but it was taken that the approval was consistent with that individual's role as a police officer.

Chairperson Blackwell asked is there a clear understanding?

Chief Bully-Cummings stated when we suspend a member we take his identification card, his badge and everything else associated with being a Detroit police officer. At that point in time, when that equipment is removed, any approval that we have given for other than the Department issued weapon is also removed.

Comm. Norris stated but John Does doesn't need your approval.

Chief Bully-Cummings stated because you can take it another step, what if the officer does not have a CCW and he has a second weapon, his only authority to carry that weapon is the id and the badge.

Comm. Norris asked if I work for the DPD there are certain kinds of outside jobs that I am not allowed to hold, if I am suspended can I hold those jobs?

Comm. Holley stated your are John Doe.

Comm. Norris stated that is why I am asking that though, because I understand that some rules are still going to apply, but I don't know about that rule.

Atty. Goldpaugh stated my position at least is there is a part of the rules and regulations, which indicates that when an individual is suspended without pay he is not subject to the rules and regulations of the Department.

Comm. Norris asked so in other words, not only could I leave the city and get those other jobs, I could do jobs in the city that as an officer that I would have not been allowed to do?

Atty. Goldpaugh stated I would suggest that was probably true. I don't think that has ever been tested because of that provision of it.

Comm. Norris stated as Comm. Blackwell said, the sensitivity is to the person who is without pay. We want to uphold the standards that the Chief is trying to set. We are also sensitivity to people living a livelihood.

Atty. Goldpaugh stated I understand that, but I am saying their position...

Chairperson Blackwell stated historically, we have paid out \$120 million dollars in the city over the last ten years from the police department for misconduct and etc., we lost and we paid it. The issue is there is an issue if an officer who is now restricted from doing security guard status duty and suspended and he can become a security guard and technically carry a weapon. Now he no longer has any duty or authority to be a Detroit Police Officer, the only thing that I am concerned about is that the Department requires that we approve the non-police issued weapon that he carries.

Atty. Ninowski stated I think if he is a private citizen....

Chairperson Blackwell stated no, before he is a private citizen. If a police officer is allowed to carry another gun other than his police issued weapon, that is his own weapon. He asked am I right?

Atty. Goldpaugh stated that is correct.

Chairperson Blackwell asked can he continue to carry that weapon after all his separation takes place?

Comm. Norris stated if he has a CCW.

Chairperson Blackwell asked if he can, why do we have to give approval for that non-Detroit police issued weapon?

Atty. Goldpaugh stated I think that we go back historically, that there was a point in time when the only weapon that was being issued by the Detroit Police Department was the .38 caliber a number of years ago, before the glock came. At that time, there was a large number of officers particularly undercover or worked in different units that wanted to carry more powerful weapons because they were being out done. So, they would have to go and qualify, but a number of officers would then carry their own weapons on duty. I believe that could have been the portion of where the Department said, this is the gun that we are giving you to carry as a police officer and if you want to go out and spend your own money and purchase

another weapon, we want to make sure that it is a good gun and that you are properly trained to use it. So, they then would have to go and qualify with this other weapon and that is where it comes to this approval. You are now approved to carry this weapon, while on duty.

Chairperson Blackwell asked since that is your only weapon and you have a CCW, can you carry that weapon off duty?

Atty. Goldpaugh stated yes, you can.

Chairperson Blackwell stated here is my dilemma, the same weapon that they are using on duty is the same weapon that could be used off duty in some jurisdiction or we say that there is no risk or no liability associated with.... But the difference is, there is somebody that says this was used while on duty and I was asking you why it was used off-duty. No, there were on duty. The issue is because it is a gun that has mutable power because it could be used while on-duty and it could also be used while off-duty outside the city because it is the only person's gun, but that gun was approved by the Department. I just want to make sure that when that person leaves with that gun that was at one time carried on-duty and approved by the Department, goes with that officer because that is the officer's own gun. He asked is there some legal issue that is clear that the authority ends also with that approval? That's all I was asking because the issue was if they go out and get gainful employment or go do other things, when are they restricted from doing what they are doing. One of the arguments is that this long protracted hearing process is causing undoing harm. We are sensitive to that, but what I am hearing is that there is no restriction at all, so they are going the next day and getting a job. The police officers aren't the only ones losing jobs.

Atty. Goldpaugh stated I understand that Commissioner.

Chairperson Blackwell stated there are a lot of people losing work that are trying to find a way to make ends meet. I thought that there were greater restrictions on what one could do than what is being said here today. So, that's least enlightening in terms of some of the flexibility someone may or may not have. And it does not prevent them from coming back to the Department at some point when there is a rejoining or someone is able to come back after a certain period of time. He asked is that correct? If the Chief decides to do a hearing to bring them back and they come back, they have their full police powers at that particular point, except for the interrupted period, I mean that's gone, but they rejoin the force as a police officer with full duties and authorities unless they are on restricted duty.

Comm. Norris stated sometimes they come back full duty.

Chief Bully-Cummings stated the approval for a weapon other than the department issued weapon is as a Detroit police officer, I think that is where you have to draw the distinction.

Chairperson Blackwell stated I....

Chief Bully-Cummings stated if an officer has a weapon other than the department-issued weapon the approval does not carry over. The approval is simply as a Detroit police officer, we are saying that you are authorized and that you qualify to carry this weapon on or off duty. There is also a paragraph in our consent decree, which deals with ammunition, weapons and the like. It is only as a Detroit police officer and when they are separated....

Comm. Norris stated so they are just Joe Citizen.

Chief Bully-Cummings stated that is their weapon and they own it. If they have a CCW, they can carry it. If they choose to pursue employment as a private security guard there are some other issues that arise there. There is a Public Act 330, which covers security officers. So, that is a completely different issue for us.

Comm. Holley asked are we restricted as Commissioners? Why does a police officer have to wait that long? Do we have any authority or influence to change the process so that an officer would have the same privileges as any private citizen would have?

Comm. Norris stated issue number 1, is the prosecution issue. Everybody agrees, including Mr. Goldpaugh, that if the person is being charge with a felony there are conclusions on them working as a police officer. So, we have no authority over the Prosecutor's Office at all.

Comm. Holley stated we sit up here every week and we are either suspending one or two police officers, We only have a 4,000 police officer city. We are running about 2,000 to 3,000 short, but why sit up here and ...somebody across the street affects what I do over here or what I do affects what they do, we don't talk to them about what needs to happen in order to know if I will have this officer or not have this officer, so that I could put someone else in his place. I don't understand why we can't influence the Prosecutor's Office that we have a problem over here.

Comm. Norris stated you can.

Chairperson Blackwell stated there is a union contract with prescribed procedures....

Comm. Holley stated at some point or another, the Board should be proactive enough to try to make a difference. They argue up here before us about something that is in the union contract, then yet you tell me that I have no relationship to that and yet they are up here arguing about a contract that I am not familiar with. It doesn't make sense for us not to at least convene in such a way that we tell the Prosecutor what we think we need to do and see what the reaction would be rather than sitting up here and making people think we are asking to much.

Comm. Norris stated what I am saying we have influence there, but not authority. The second issue is how long the disciplinary process in the department takes, which is separate from what goes on in the Prosecutor's Office that is one where we can place pressure because we oversee this Department, so we do have some say there. But as Comm. Blackwell said, there are a lots of hoops in the Department that have to be jumped through. The third which is what we have really are doing and we have been wrestling with this for 1 ½ years. There is a balancing act. It is a balancing act between the desire to have off the force people that are doing things that they shouldn't be doing on the force and the desire to protect the rights of those people until they fully play through. That is something that we have been wrestling with up here for a good 1 ½ years and we do balance and we have total authority over that. We can contravene this if we want and this guy would be paid starting tomorrow or we cannot contravene it and he will not be paid.

Atty. Goldpaugh stated it is a she.

Comm. Norris stated that is entirely within our authority and that is why we are wrestling with the stuff that we are wrestling with because those are tough calls to make.

Comm. Holley stated it wouldn't be as tough to make if I knew that the person is going to have justice in 30 days. It wouldn't be tough for me to make, but when I am hearing a previous case that has been going on for 9 months then it makes it a little difficult for me to say that this person should not have pay because they haven't been found guilty or innocent. I don't understand why we as a group cannot try to not to have to go another year and a half to try to make a difference of this. He asked why aren't we involved in negotiations with the contract?

Chairperson Blackwell stated because that is not our role. The Charter clearly prescribes what are role is. We cannot get involved with management and labor issues. When you start doing that they have a caused action. We are created to be a liaison between the community, the police department, the Mayor's Office and the City Council.

Comm. Holley asked so I protect the community with some input that I don't have.

Chairperson Blackwell stated you have input. The Board has adopted a SOP Manual for the first time in twenty years, which has never been done. We have gotten involved in the budget issues and we tried to fight for things and all of the things that we are required to do. We are working with Personnel and trying to deal with the recruiting issue.

Comm. Holley asked but we cannot ask or influence...?

Chairperson Blackwell stated we can do all of that outside of our official capacity. Also, when someone commits a murder, that case does not come up in a month and it goes through a long process. So, when somebody is being charged, it is the same...it has to fall in line the same. They don't jump ahead because they are a police officer. As frustrated as we are sometimes, the person to your left is the person to talk to. I have found that when I talk to the Chief, that the Chief will listen and disagree and sometimes we are able to effect policy. Based on what this Board used to do, in terms of the members now, I think that we are very proactive, but we can't legally do stuff outside the authority the Charter gives us. All we can do is use our influence, our good sense and our ability to try to bring these together.

Comm. Holley asked can we...you as the Chairperson or whoever you designate to talk to the Prosecutor's Office about our dilemma over here and that we cannot afford to wait for long periods of time to go by before the police officer's case comes up.

Chairperson Blackwell stated you and I can do that together. Whether or not a person is charge with a felony, doesn't necessarily temper the Chief's decision on whether or not they are fit to be a police officer. Sometimes people that are exonerated in the court are still going to...she has to make a decision based on other factors. I would like for Exec. Dir. Goss and others to really spend some time...because I think being a new member, they need to give all of the Commissioners more information because a lot of things we are not familiar with. It is a lot of information to digest and a lot of things that I could not figure out either, but after two years I kind of realized that we were limbed in some areas and all we had was the ability to influence things. You have that ability. I would love to set up a meeting with Mrs. Worthy, you and myself.

Atty. Ninowski stated suspensions with pay are based on the allegations. If you go back to the **Roger Grover** case, which was the first case in 1985 that discussed suspensions without pay under Article 9 out of the Detroit

Police Officer's Collective Bargaining Agreement. Arbitrator Roummell ruled that if the allegation, if proven, would destroy the officer's effectiveness in police work, then a suspension without pay is warranted. Since that time, there has been a number of arbitration decision. The issue is conduct, not criminality. Is the conduct egregious to warrant a suspension of the officer's duty status without pay. In this particular case dealing with Officer Jones is that, yes it is. It is your decision. You need to make the decision as to whether or not the conduct is in fact egregious to warrant a duty status suspension. The standard, what you need to look at, certainly criminality is an issue. Did the officer violate the criminal law, in this case, yes she did. Did the officer violate the rules and regulations of the department, absolutely, it is a blighted abuse of police authority. Did the officer violate the Department's ability to trust that officer to perform her police functions? Yeah, she did, she abused her police authority absolutely without question. I think the last point and the most important point you need to look at and this comes through arbitration decisions; is the impact that officer's conduct had on the community's ability to trust this department to perform it functions. Weighing all of those factors, the department would respectfully request that you concur in the Chief's decision to suspend the duty status of Officer Jones without pay.

Atty. Hooks asked does that conclude the arguments with respect to Officer Jones?

Atty. Goldaugh stated I don't disagree with some of the comments of Mrs. Ninowski with respect to the Department's position. I would like to point out, as she just pointed out, these are only mere allegations and as Arbitrator Roummell said, that if proven and that is where we have a real problem, bring before you any type of request for a suspension when there has been nothing to determine if charges are even going to be brought against this individual, either departmentally or criminally. If we were sitting her at least with something that says we are going to charge her with a felony or even with a misdemeanor, I would be arguing differently of course. But at least there would be something where a body has looked at some documents and said if believed maybe they are guilty of something and that is what we are talking about. We are not talking about after a full hearing, we are not talking about after witnesses have been crossed examined, we are talking about just mere allegations, that if proven, might result in dismissal from the department. Therefore, I would ask tat you do not continue the suspension without pay at this time.

Vice-Chairperson Ramirez asked would Officer Jones wouldn't even be here or her case would not be discussed had she not picked up and called 911? Is that so?

Atty. Goldpaugh stated I would have to defer to Mrs. Ninowski.

Vice-Chairperson Ramirez asked if she had done that instead of what they are alleging and if she had picked phone and called for back-up or called 911 and stated that there is domestic violence going on. Had she done that, we wouldn't even be hearing this case?

Atty. Ninowski stated I understand what you are saying, instead of taking action and if she had called the police for action, then yes, you are correct.

Vice-Chairperson Ramirez asked in this case she allegedly pulled her weapon?

Atty. Goldpaugh stated correct. The limited information that I have...as you are well aware, I don't have anything except for being part of the investigation, I have not been part of that. As far as I have been informed, there are conflicting testimonies as to whether not she pulled her weapon or whether over a struggle when the gentleman was trying to get, there was an attempt by him to get her weapon. It goes both ways.

Atty. Ninowski stated the conflicting testimony comes in with Officer Jones and her friend, and the civilian witness and the complainant. So, the civilian witnesses and the complainant say the same thing and Officer Jones and her friend say something different. That is where the conflict comes in.

Comm. Hampton asked would it be appropriate to hold this case in abeyance for 60 days and see if the Prosecutor has taken action or if Internal Affairs agrees with this procedure and that process could be worked out and revisited within 60 days?

Atty. Hooks stated I would not recommend that you hold this case in abeyance for sixty days. I would recommend that you take an action to either continue this officer without pay or that you contravene at this time and the officer would be returned to the payroll, whether or not full duty, is up to the Chief. But, this officer would be returned to the payroll as of this date, I would suspect. With the request that if there are some changes in status with respect to the warrant, that that information be brought to you at that time.

Comm. Hampton asked could we contravene with an amendment that if there is no factual decision made as a resolution that this person be reinstated with pay.

Chairperson Blackwell stated that will conflict with other contraventions that we have done.

Comm. Hampton asked even if we hold this is as a non-standard or non-precedence without pay?

Atty. Hooks stated I would suggest that you either continue by not contravening or that you would contravene and that you would return this officer to the payroll. However, with the request, that should there be a change and if the felony warrant is issued or any warrant whether it is felony or misdemeanor, then the Chief could resubmit it.

Comm. Norris stated there is no limbo status because they are either suspended or they are not and if they are not, we don't get to decide to suspend the Chief gets to decide that.

Comm. Holley asked would we be doing that today?

Atty. Hooks stated you can contravene if that is what you would wish to do, which will bring the officer back to the payroll.

Comm. Holley stated I thought in these cases we always meet between the next meeting and if a decision comes up...?

Comm. Norris stated that is for the disciplinary ones, not for the suspensions without pay.

Atty. Hooks stated that is for the disciplinary appeals, this is a separate matter; this is dealing with suspensions without pay.

Comm. Norris stated the difference is that the disciplinary ones we decide to uphold and not uphold or change; we have lots of leeway there, here are only choice is to contravene or don't contravene. If we contravene, the person is not suspended without pay anymore and if we say nothing, the suspension stands.

Atty. Ninowski stated if the suspension stands the number does have an appeal to contractual arbitration.

Comm. Hampton asked within a timely period?

Atty. Hooks stated yes, there is a 20 day window in which they have to appeal to arbitration for a suspension without pay.

Atty. Goldpaugh stated I believe this is a contract, not a discipline procedure. Therefore, they have to file the grievance and the grievance will go through certain steps.

Atty. Hooks stated so in other words, it may not be that 20 day period that is attached to the disciplinary action may not apply in this particular case.

Atty. Goldpaugh stated the time frame is 20 days in which to file the grievance.

Atty. Hooks stated they can file, but it has to be within a certain time period.

Atty. Goldpaugh stated that is correct, that gets that ball rolling and we find out if there are somewhere down the road.

Comm. Hampton asked do you have expedited arbitration?

Atty. Ninowski stated yes, under the collective bargaining agreement.

Atty. Goldpaugh stated the union would actually go through filing the grievances.

Atty. Hooks stated the bottom line is that they have the right to appeal should you uphold the suspension without pay and then that member does have the right to appeal to arbitration. But what we are here to decide today is whether or not her suspension without pay will continue or whether you will contravene, which will be based on the underlined conduct that was presented to you as well as in light of the arguments that was presented to you by parties.

Unless contravened by this Commission the above suspension without pay will stand.

There no contraventions to the above suspension without pay.

2. **Police Officer Christopher Kennedy**, Badge 3666, assigned to the Sixth Precinct.

Atty. Goldpaugh stated when Officer Kennedy's petition was originally drafted there was no incarceration by Officer Kennedy and I therefore was planning on being here to argue that mere fact. The mere fact that a probation violation had been issued for the warrant, in which you responded to and complied with had been issued and would not be sufficient enough to suspend is pay. I say that because there has been a number of cases where officers have been on probation for a domestic

assault or something of that nature in the court. Through whatever reason, they were alleged to violate their probation and we have never suspended them without pay before. Between the time that the petition was filed and the time when the hearing was actually heard, Officer Kennedy was found guilty of that probation violation and much to my surprise, to be quite honest with, because of the nature of it. There was immediate incarceration by Judge Atkins. To be honest with you, she was excessive in what she did, but she made her ruling. The petition was then amended to include the incarceration. I would be honest with this panel, that I am not arguing that that suspension without pay should not have taken affect at that point in time. I believed the fact that the man was placed in jail right or wrong would be that type of conduct, which would rise to the level of an appropriate suspension under Article 9. I'm only here today to indicate that when he does get out, since there are no departmental charges against that I am going to come back before this Board and ask that that suspension be set aside without pay at that time.

Comm. Norris asked is he in jail right now?

Atty. Goldpaugh stated he is in jail right now. He's not going to be able to go work, so I am not suggesting that. I am only indicating that once he is that I wouldn't come back before the Board because then the circumstances, which would warrant the suspension without pay without a hearing no longer existed. Similar to when we send letters to the Chief when an officer has been acquitted.

Chief Bully-Cummings exited the conference room at 4:15 p.m.

AC Shoulders sat in for **Chief Bully-Cummings** at 4:15 p.m.

Comm. Holley asked are you saying when the officer gets out of jail?

Atty. Goldpaugh stated correct.

Comm. Holley asked when the officer gets out of jail are you asking us to put him back on the payroll?

Atty. Goldpaugh stated correct, I am going to come back and file a petition before this Board.

Comm. Holley stated I was making sure that I heard you correctly.

Atty. Goldpaugh stated Article 9 is about an officer's rights to have due process as to why his suspension should be without pay from that point on without a full complete hearing based on certain charges.

Atty. Ninowski stated this is the only petition that the Department has filed with respect to this case before this Board. Otherwise, the Department's position is that it is egregious conduct.

Unless contravened by this Commission the above suspension without pay will stand.

There no contraventions to the above suspension without pay.

3. Police Officer Michael Redmond, Badge 387, assigned to the Eleventh Precinct.

Atty. Goldpaugh stated I have some problems with why we are here on this at such a late date because Officer Redmond has suspended without pay by this Board for other underlined misconducts.

Chairperson Blackwell asked does the Board uphold a suspension or does the suspend?

Atty. Goldpaugh stated it upholds the suspension, so in affect the Board would continue the suspension.

Chairperson Blackwell stated you mean allow the suspension to continue.

Atty. Goldpaugh stated Officer Redmond was suspended without pay by the Chief and this Board agreed. There was a grievance arbitration and I believe that the grievance arbitration was upheld, which means that his suspension continues to be without pay today on other matters and indicating that when he made that decision with respect to Officer Redmond on a previous occasion, the Chief was correct. We now have now gone through the system with Officer Redmond and we are out there waiting around to find out what happens with some of his departmental hearings. The suspension petition that is now being filed with respect to you goes on and talks about the basis for the suspension and includes a number of the charges that Officer Redmond is addressing throughout the disciplinary process. This addresses it saying that all of things happened and they may or may have not happened and they aren't going through the system, but what is unique about it is that some of the dates are November 2001, May 2002, April 2003 and then the most egregious that in May 2004, when he was suspended without pay for these other underlined allegations, he failed to appear for a Garrity hearing. I guess he is going to be charged departmentally with failing to show up and for disobeying an order.

Comm. Norris stated yes, there is a history related in what we were giving, but there is a suspension without pay proposed based on conduct that was revealed in the first week of August of this year. She asked wasn't Officer Redmond already suspended without pay at that time?

Atty. Goldpaugh stated yes.

Comm. Norris asked isn't he already suspended without pay.

Atty. Goldpaugh stated yes.

Comm. Norris asked if we contravene today, would he still be suspended without pay on the other stuff.

Atty. Goldpaugh stated exactly.

Comm. Norris stated what the Chief is saying is that there is a new additional ground for a suspension without pay so regardless of what happens with that other stuff, there's this one. She asked am I right?

Atty. Goldpaugh stated no, I don't believe that is what is happening. I believe what is happening here is that we are now saying besides all of those other things, I want you to now suspend him without pay for all of these allegations. That's why we are here. If this was standing alone... that is one way to look at it. We have to look at when we are dealing with an Article 9 argument, which talks about is an officer to be taken off the pay without his full appellate or procedural rights to due process rights and that's what we are talking about. So, what we have done is packaged everything here with Officer Redmond and I would suggest to you that we are sitting here spinning are wheels and wasting our time. I clearly believe that Officer Redmond has been to arbitration on one of these cases and he has been fired by a Trial Board and he is probably going to be fired by an arbitrator. So that is why I don't understand why we are here.

Chairperson Blackwell stated if a police officer knew that no matter what he/she did that they could continue to receive their pay until this process went on. It is a lot easier to make a mistake knowing that you don't get paid for ten months and not be working than knowing that you could lose your pay. So, the penalty and the punishment is more severe from the standpoint of maybe I need to adhere to the rules, policies, and procedures. I think it is very important when we differentiate and we drop down to the extinct where somebody may not be charged with a felony and we do suspend them with pay. It goes out into the Department that the Chief, Assistant Chiefs and the hierarchy of the police department is not going to tolerate certain behavior any more. So, to that extinct this

Board determines whether that gets ratcheted up or ratcheted down. I think that we have been trying to ratch it up because of the environment with the consent decree and some of the issues that have gone on. Sometimes, we step in and we if we just don't agree and we contravene. His argument is that this process needs to go through and the argument is about someone's pay being affected. That is something that we need to focus on because if that is the argument then I think we really do have to take the stand on not thinking that somebody could continue to receive pay no matter what the circumstance. I think at that point the Board of Police Commissioners has a very important statement to say. So, the premise of your argument is very serious and we take it serious, but I think that we would be remissive if we tried to say let's agree with you until someone is actually found guilty of an offense then they pay is secure. I don't think we want to say that.

Atty. Goldpaugh stated that is not what I meant with Officer Redmond under these circumstances. All I am indicating is that when you look at the petition when it was drawn up and because of the facts and the underlined cases that this Board has already heard. That is where I believe that when you look at these circumstances that this is not the appropriate forum because he is already suspended without pay.

Chief Bully-Cummings returned to the conference room at 4:25 p.m

Comm. Norris stated you have a guy that is already suspended without pay and you acknowledged at least based on the arbitrator's ruling so far, he is still screwing up. And if the Chief can't do anything...that is ridiculous, she ought to be able to take some sort of action to say this is not acceptable. Because he is already suspended without pay, he can't say I have cart blanc to go do whatever he wants to do. Your guy is already going to be without pay no matter what. She asked so why do you care?

Atty. Goldpaugh stated I care only because we indicated we are here for a particular argument, we are not here to say, alright this guy is a screwup and therefore we are going to suspend him without pay for things that happened a long time ago.

Comm. Norris stated something happened two weeks ago.

Atty. Goldpaugh stated I agree and if when you look at that we are then back to if we were here for only that, then I would argue that he shouldn't be suspended without pay. I don't want it to happen the next time whereas, Officer Smith, who has an unblemished record. Well, you caved in on Officer Redmond, so why aren't you caving in on Officer Smith. That is why I am here.

Atty. Ninowski stated I would like to make the following three points: **1.** Arbitration decisions as we know, have said that a suspension without pay is a case by case analysis. Each act of his conduct is separate. This is a separate act of misconduct. **2.** The act that Officer Redmond engaged in on August 8, 2004, is an egregious act, in of in itself. But, I think more egregious is the pattern and the practice of blatant disregard for rules and regulations of any kind. It could department rules or regulations. It could certainly be the state law and the local ordinance with respect to criminality. **3.** In the suspension without pay arbitration decision that Mr. Goldpaugh referred to, Umpire Alexander and her decision indicated as follows: The repeated activities of Officer Redmond over a period of more three years indicates such blatant disregard for the status authority, integrity and respect that the department needs from its officers to fully negate his ability to function in some capacity as a Detroit Police Officer.

Chairperson Blackwell asked is this person currently suspended without pay?

Atty. Ninowski stated correct.

Chairperson Blackwell asked is all of their authority as a Detroit Police Officer is also suspended?

Atty. Ninowski stated correct.

Chairperson Blackwell asked are they considered as "John Q. Citizen"?

Atty. Ninowski stated yes.

Chairperson Blackwell asked so how did they violate department rules once they are suspended?

Atty. Ninowski stated there is a provision in the Manual that indicates while they are on a suspended duty status that they are still to abide by the criminal laws of the State of Michigan.

Chairperson Blackwell stated I agree with that.

Atty. Ninowski stated they are to conduct themselves as any recruit would conduct themselves.

Chairperson Blackwell asked so theortically they are totally not "John Q. Citizen"?

Atty. Ninowski stated in terms of....

Chairperson Blackwell asked no other citizen has that particular provision that they are bound by?

Atty. Ninowski stated correct. In terms of exercising their authority as a Detroit Police Officer that has been taken away from them.

Chairperson Blackwell asked do they still have some obligations and responsibilities as an officer?

Atty. Ninowski stated yes, they do.

Chairperson Blackwell stated that is a little different from what I heard earlier. It's confusing.

Atty. Ninowski stated it is very confusing.

Chairperson Blackwell stated I think it would be helpful for the Board to have a session with you and some other people from the Law Department as it relates to policy.

Atty. Ninowski stated the Law Department would be very happy to sit down and address any concerns that you have.

Chairperson Blackwell stated it is not so much that they are concerns; it is the ability for us to do our job better.

Atty. Ninowski stated how about I say whatever you need. Any issues, questions or concerns you have, we will be happy to address them.

Unless contravened by this Commission the above suspension without pay will stand.

There no contraventions to the above suspension without pay.

CITIZEN COMPLAINTS RECEIVED

| | <u>This Week</u> | <u>Year to Date</u> |
|---|------------------|---------------------|
| 2004 - Weekly Count of Complaints: | 29 | 1,196 |
| 2003 - Weekly Count of Complaints: | 32 | 941 |

5. REPORT/PRESENTATION – CHIEF OF POLICE

DETROIT POLICE DEPARTMENT

REPORT TO THE BOARD OF POLICE COMMISSIONERS



BUILDING A SAFER DETROIT THROUGH COMMUNITY PARTNERSHIPS.

The Detroit Police Department is committed to uphold its mission to provide a safe environment for our residents and businesses. This effort is not possible without the joint commitment of the community and the Police Department. We appreciate and value the role our citizens have played in helping us to take guns and drugs off the streets of the city of Detroit.

SPECIAL ENFORCEMENT ACTIONS

During the period of September 8TH – 14TH, the *Narcotics Enforcement and Conspiracy Units* conducted 51 street enforcement actions and 16 search warrants within the boundaries of the city of Detroit, resulting in the following arrests and confiscations:

- ◆ 30 Felony arrests
- ◆ 124 Misdemeanor arrests
- ◆ 2 Juveniles detained
- ◆ 8 Vehicle confiscated
- ◆ 635.8 grams of cocaine, 538.9 grams of heroin, 12,941.8 grams of marijuana and 58 pills - street value **\$957,910.00**
- ◆ \$20,907.00 U.S. currency
- ◆ 5 Hand guns
- ◆ 4 Long guns
- ◆ 8 Vehicles

On September 8th – 14th, *The Gang Enforcement Section* and *The Vice Unit* conducted enforcement actions within the boundaries of the city of Detroit, resulting in the following arrests and citations:

- ◆ 1 Fugitive arrested for “Cocaine – Felony Warrant”
- ◆ 5 Arrested for “Offer to Engage Another for the Act of Prostitution”
- ◆ 6 Vehicles confiscated

THE REPEAT OFFENDERS PROGRAM

On September 8th, members of the Repeat Offenders Program received a request from the U.S. Marshals Service and the Marion County Sheriff's Department, Indiana, to assist in locating a woman wanted for several violent "Armed Robberies" and "Parole Violation." The Repeat Offenders Program developed information that this same woman was profiled on the Detroit Police Most Violent Person Fugitive Board. Additionally, she was known to frequent a house in the 15000 block of Freeland in the city of Detroit. The officers conducted surveillance in and around this location. As a result of their investigation, she was arrested without incident.

Crime Statistics

Citywide, based on our 6-month report to the state, the overall reduction is 4.00%, and the violent crime reduction is 8.62%.

Police/Community Intervention



TAKING THE GUNS OFF THE STREET !



Total Guns Confiscated
Year-To-Date
2,844

FIRST PRECINCT

On September 12th, officers of the 1st Precinct were on patrol in the area of Temple and Fourth. They observed a man known to be wanted for "Assault with Intent to Murder," "Felony in Possession," "Felony Firearm," and "Habitual 4th Degree." The man was arrested without incident.

FIFTH PRECINCT

On September 12th, officers of the 5th Precinct responded to the area of Mack and Conner on a "Person with a gun" run. As the officers approached the location, they observed a vehicle fleeing the scene at a high rate of speed. The officers conducted a traffic stop. As a result, the driver was arrested for "Operating Under the Influence of Liquor," and the juvenile passenger was arrested for "Carrying a Concealed Weapon on Person." Confiscated was one semi automatic handgun.

NINTH PRECINCT

On September 11th, officers of the 9th Precinct responded to the 13000 block of Collingham on a "Home Invasion" run. The officers received a description of a man and vehicle observed leaving the location. The officers checked the area and observed a vehicle matching the description of the wanted vehicle. An investigation resulted in the arrest of the man for "Parole Violation" and "Home Invasion." A search warrant was obtained for the man's residence; numerous stolen items were recovered.

ELEVENTH PRECINCT

On September 10th, Officers of the 11th Precinct while on patrol observed a vehicle driving erratically and at a high rate of speed in the area of Luce and Fenelon. As a result of an investigation, the driver was arrested for "Carrying Concealed Weapon-Motor Vehicle," "Felony in Possession," and "Felony Firearm." Confiscated was a .45 caliber semi automatic handgun.

TWELFTH PRECINCT

On September 7th, officers of the 12th Precinct responded to a "Home invasion in progress" run in the 16000 block of San Juan. The officers received information that three (3) armed men forced entry into the home. Once inside, the men held the residents at gunpoint demanding money and valuables. Ultimately, the men fled the scene leaving the homeowner with minor injuries. As a result of an investigation, the three (3) men were arrested on September 10th. On September 12th all three men were charged with "Assault with Intent to do Great Bodily Harm," "Larceny in a Building," "Felonious Assault" and "Felony Firearm."

Chief of Police Ella M. Bully-Cummings

6. PRESENTATION – CIVIL RIGHTS INTEGRITY BUREAU

Chief Bully-Cummings stated DC Fred Campbell will be facilitating that presentation and providing an update to Commission as to where the Department is with the DOJ Consent Decree.

DC Fred Campbell stated one of the conditions of confinement is that we established what we call the holding cell compliance. We established that

committee and the chairperson of that committee is Lt. Gerald Simon. In addition, since we had a lot of issues with what we could be interviewed on, we needed to ask an attorney to look at them. The City Law Department saw it fit to assign a senior litigator to our office and that individual is assigned directly to CRIB. His name is Mr. Gerald Adams. We will give you a progress report as to where we are at and some of the accomplishments that we have made since July 18, 2003. The Fourth Quarter Status Report was sent to the Monitor on August 31, 2004. The process for that is that the Monitor has until September 30, 2004 and they are going to issue a Draft Report to the DPD. We have ten days to review that draft report at which time they will take our comments and they will file the actual report with the court on October 18, 2004. During the fourth quarter, we had a total of 109 paragraphs, which are going to be evaluated by the Monitor. 79 of those paragraphs is the Use of Force consent judgment and 39 of those paragraphs will be the Conditions of Confinement. Of those paragraphs, we (the DPD) believe that we are in compliance with 20 of the Conditions of Confinement paragraphs and 20 of the Use of Force judgment paragraphs. One of the accomplishments that we are very happy with is that the Monitor, Ms. Robinson has indicated that the Department has no policy. That is far from the truth. As a matter of fact, there is only one policy that had to actually be developed pursuant to the consent decree and that was the Foot Pursuit Policy. The other 33 policies that we are revising were already existing. All we are doing is revising the policy to meet the conditions of these two consent decrees. In the second quarter, we were still developing policies, but we managed to make some headway because during the third quarter, we actually completed six policies that were actually turned into the Monitor and the Department of Justice. In addition to the third quarter we had two training directives that were approved. All of these policies are approved by this Body and the Chief of Police. In the fourth quarter, we accelerated and actually developed and revised a total of nine policies. In the fourth quarter, we had three directives that were actually approved

7. APPROVAL OF GRANT

Automobile Property Crimes

The Automotive Theft Prevention Authority has offered the Detroit Police Department's Commercial Auto Theft Unit an opportunity to re-apply for the **Automobile Property Crimes Grant** for 2005, totaling **\$911,524.75**. Of this amount, the Automotive Theft Prevention

Authority will provide **\$638,643.56**, with a cash match of **\$227,881.19**.

The grant will provide salaries for six (6) police officers, two (2) investigators, two (2) sergeants and the purchase of ten (10) vehicles for the Commercial Auto Theft Unit.

Preventing Auto Theft Grant

The Automotive Theft Prevention Authority has offered the Detroit Police Department's Commercial Auto Theft Unit an opportunity to re-apply for the ***Preventing Auto Theft Grant*** for the year of 2005, totaling **\$1,094,022.48**. Of this amount, the Automotive Prevention Authority will provide **\$820,516.86**, with a cash match of **\$273, 505.62**.

The grant will provide salaries for ten (10) police officers, two (2) sergeants and purchase twelve (12) vehicles.

MOTION: Comm. Norris made the motion to approve the Grant.

SECOND: Comm. Blackwell seconded the motion.

VOTE: All in attendance voted in the affirmative.

8. APPROVAL OF GENERAL ORDER

- **Directive 203.6: Surveillance**

MOTION: Comm. Norris made the motion to approve the Grant.

SECOND: Comm. Blackwell seconded the motion.

VOTE: All in attendance voted in the affirmative.

9. OTHER BUSINESS

10. ANNOUNCEMENT OF NEXT MEETING

Thursday, September 23, 2004 @ 3:00 p.m.
Police Headquarters
1300 Beaubien, Rm. 328-A
Detroit, MI 48226

11. ORAL COMMUNICATION FROM THE AUDIENCE

12. ADJOURNMENT

The meeting was adjourned at 5:50 p.m.

Respectfully submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw